

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed June 21, 2005. At the time of the Office Action, Claims 1-35 were pending in this Application. Claims 24-28 were rejected. Claims 24, 25 and 27 have been amended to further define various features of Applicants' invention. Claims 36-54 have been added. No new matter is presented by these amendments. Claims 26 have been cancelled without prejudice or disclaimer and Claims 1-23 and 29-35 have been cancelled due to an election/restriction requirement. Applicants respectfully request reconsideration and favorable action in this case.

Election/Restriction Requirement

In the Office Action mailed June 21, 2005, the Examiner set forth an election restriction requirement of the claimed inventions between Claims 1-15 and 32-35, drawn to a filtration with deleukocytation membrane (classified in class 210, subclass 645), Claims 16-23, drawn to a bag system (classified in class 422, subclass 48), Claims 24-28, drawn to fluid filter material (classified in class 210, subclass 500.1) and Claims 29-31, drawn to method of treating polyurethane filter (classified in class 252, subclass 182.13). Applicants made a provisional election with traverse to prosecute the invention of Claims 24-28. Applicants hereby confirm that election. Accordingly, Applicants hereby cancel Claims 1-23 and 29-35 without prejudice or disclaimer and elects that the cancelled claims are subject to the filing of a divisional application.

Rejections under 35 U.S.C. § 102

Claims 24-26 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,498,336 issued to Naoki Katsurada et al. ("Katsurada"). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

Claims 24 and 25 were rejected by the Examiner under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,707,520 issued to Hitoshi Kuroki et al. ("Kuroki"). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1997). Furthermore, "the identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the cited art as anticipatory by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

Applicants have amended Claim 24 to recite an oxygen gas plasma-treated fabric. All new claims contain similar limitations. Oxygen gas treatment is discussed specifically in the specification at least in the Examples. Neither Katsurada nor Kuroki disclose the use of an oxygen gas plasma treated material. Both Katsurada and Kuroki use Argon plasma treatment to create radicals that allow grafting of components in order to remove platelets. In contrast, in the present invention, oxygen gas treatment allows functionalization of fibers of the non-woven fabric with oxygen atoms. Accordingly, none of the claims as amended are anticipated by Katsurada or Kuroki.

Rejections under 35 U.S.C. §103

Claims 26-28 were rejected under 35 U.S.C. §103(a) as being unpatentable over Kuroki as applied to Claim 24 above and further in view of Katsurada. Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a *prima facie* case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Furthermore, according to § 2143 of the Manual of Patent Examining Procedure, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the

claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 U.S.P.Q.2d 1438 (Fed. Cir. 1991).

As noted above, neither Katsurada nor Kuroki teach or suggest the use of an oxygen gas plasma treated material.

Applicants further note that both Katsurada and Kuroki are directed to materials designed to *remove* platelets from a fluid. At least claims 27, 28, 37, 38, 40, 45-48, 50, 54-58 and 62 are very specifically directed to materials that are designed to *not* remove platelets from a fluid to the extent possible.

Information Disclosure Statement

The Information Disclosure Statement filed July 9, 2003, failed to comply with 37 C.F.R. §198(a)(3) because it did not include a concise explanation of the relevance, as it is presently understood by the individual designated in 37 C.F.R. §1.56(c) most knowledgeable about the content of the information of each patent listed that is not in the English language. Applicants have made an earnest effort in searching for the English equivalents of the references not considered by the Examiner but were not successful in finding related documents. Therefore, Applicants hereby enclose a copy of the PTO-1449 form filed with the IDS on July 9, 2003, where the Examiner crossed out the references not considered and re-submit copies of the references including the English abstract for re-consideration by the Examiner.

CONCLUSION

Applicants have now made an earnest effort to place this case in condition for allowance in light of the amendments and remarks set forth above. Applicants respectfully request reconsideration of Claims 24-25, 27-28 and 36-54 as amended.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 02-0383 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.322.2580.

Respectfully submitted,
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Date: 10/20/05

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